

REMARKS

The 35 USC 101 Rejection of Claims 1-9.

The Office Action rejected claims 1-9 under 35 U.S.C. 101 as being directed to non-statutory subject matter. The applicants respectfully traverse this rejection based on the arguments below and the amendments to the claims. Specifically, the claims were changed to read "providing the identity of the suitable buyer to the suitable agent". Namely, if a claimed mathematical algorithm or computer program produces a "useful, concrete, and tangible result" it cannot be rejected on the grounds of being non-statutory under 35 U.S.C. 101. AT&T Corp. v. Excel Communications, Inc., Docket No. 98-1338, (Fed. Cir. April 14, 1999). State Street Bank & Trust Co. v. Signature Financial Group, Inc., 149 F. 3d 1368 (Fed. Cir. 1998). The applicants' claims include comparing a buyer's profile and the inferred criteria with the criteria of the products or services offered by agents to match a suitable agent with a suitable buyer based on the created profile of the buyer in a computer system that produces a **practical application** within the technological arts to find a prospective buyer and providing the identity of the buyer to agents. Therefore, the Applicants' invention includes a well-established practical application that satisfies the requirement of 35 USC 101. State Street Bank & Trust Co. v. Signature Financial Group, Inc., 149 F. 3d 1368 (Fed. Cir. 1998). Arrhythmia Research Technology Inc. v. Corazonix Corp., 958 F.2d 1053, 22 USPQ2d 1033 (Fed. Cir. 1992). *MPEP* 706.03 et seq.

The 35 USC 103 Rejection of Claims 1-27.

Claims 1-27 were rejected under 35 USC 103(a) as being unpatentable over Raveis, Jr., U.S. Patent No. 6,321,202, in view of Burge, U.S. Patent No. 6,014,638. The Examiner contended that it would have been obvious to combine Raveis with the system and method of Burge to enable the ability for the computer implemented method and

system to create a profile of the buyer by inferring criteria desired by the buyer based on the buyer's interaction with the interactive environment and to compare the profile and the inferred criteria to the products and services offered by agents to match a suitable agent with a suitable buyer based on a created profile of the buyer. The applicants respectfully traverse this contention of obviousness.

In order to deem the applicants' claimed invention unpatentable under 35 USC 103, a prima facie showing of obviousness must be made. To make a prima facie showing of obviousness, all of the claimed elements of an applicant's invention must be considered, especially when they are missing from the prior art. If a claimed element is not taught in the prior art and has advantages not appreciated by the prior art, then no prima facie case of obviousness exists. The Federal Circuit court has stated that it was error not to distinguish claims over a combination of prior art references where a material limitation in the claimed system and its purpose was not taught therein (*In Re Fine*, 837 F.2d 107, 5 USPQ2d 1596 (Fed. Cir. 1988)).

The applicants' claimed invention encompasses a system and method for finding a prospective buyer and providing the buyer to agents offering for sale products or services. The applicant's claimed invention provides the buyer with an interactive environment having information relating to the products or services offered by the agents. A profile of the buyer is created by inferring criteria desired by the buyer based on the buyer's interaction with the interactive environment. The profile and the inferred criteria are compared with the criteria of the products or services offered by the agents to match a suitable agent with a suitable buyer based on the created profile of the buyer. **The identity of the suitable buyer is provided to the suitable agent.**

Raveis teaches a system and method for managing real estate transactions. The method includes the steps of receiving and storing data relating to a plurality of contacts including buyers and sellers of real estate, receiving and storing data relating to a plurality of vendors each associated with at least one phase of a real estate transaction,

accessing vendor data based upon occurrence of a particular phase of the real estate transaction and communicating data relating to the vendors to a contact upon occurrence of the particular phase of the real estate transaction. As stated by the Examiner, Raveis, does not, however, disclose and teach a computer-implemented method and system which creates a profile of the buyer by inferring criteria desired by the buyer based on the buyer's interaction with the interactive environment and compares a buyer's profile and inferred criteria with the criteria of the products or services offered by the agents to match a suitable agent with a suitable buyer based on the created profile of the buyer. **Nor does Raveis teach providing the identity of the suitable buyer to the suitable agent.**

Burge teaches a system for customizing content and presentation of content for computer users is disclosed. The system monitors and records a user's navigational choices to determine the user's needs and preferences for subsequent computer displays. Displays are customized in accordance with the user's needs and preferences. In a preferred embodiment of the present invention, an electronic marketing and shopping system accessible via the WWW is described. The shopping environment--including the opportunities presented to the shopper (content) and the appearance of the displays (presentation of content)--is customized according to the shopper's preferences. The functions of data collection and display customization are performed automatically by the electronic shopping system. To customize the environment, various attributes of Web pages or other displays provided by participating merchants are modified as they are accessed by shoppers using the system. (Abstract) **Burge does not, however, provide the identity of a suitable buyer to a suitable agent. Burge merely displays certain items to the buyer based on the buyer's past preferences. No seller's criteria is used to match a buyer to a seller and provide the seller the buyer's identity. In Burge it is impossible for the seller to obtain the buyer's identity.**

Neither Raveis nor Burge, either alone or in combination, teach a computer-implemented method and system which compares the buyer's profile and inferred

criteria with the criteria of the products or services offered by the agents and provides the buyer's identity to the seller to match a suitable agent with a suitable buyer based on the created profile of the buyer. Nor does Raveis in combination with Burge recognize the advantages of the applicants' claimed invention. Namely, Raveis in combination with Burge does not teach a computer-implemented method and system which compares the profile and the inferred criteria with the criteria of the products or services offered by the agents to match a suitable agent with a suitable buyer based on the created profile of the buyer in order to allow an agent to specifically target a given buyer for marketing purposes.

Thus, the applicant has claimed elements not taught in the cited art and which have advantages not recognized therein. Accordingly, no prima facie case of obviousness has been established in accordance with the holding of *In Re Fine*. This lack of prima facie showing of obviousness means that the rejected claims are patentable under 35 USC 103 over Raveis in combination with Burge. As such, it is respectfully requested that the rejection of Claims 1-27 be reconsidered based on the following claim language, as exemplified by Claim 1:

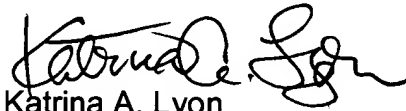
" A computer implemented method for finding a prospective buyer and providing the identity of the buyer to agents offering for sale at least one of products or services, the method comprising using a computer to perform the following process actions...providing the buyer with an interactive environment having information relating to the products or services offered by the agents; creating a profile of the buyer by inferring criteria desired by the buyer based on the buyer's interaction with the interactive environment; comparing the profile and the inferred criteria with criteria of the products or services offered by the agents to match a suitable agent with a suitable buyer based on the created profile of the buyer; **and providing th identity of the**

suitable buyer to the suitable agent."

Summary.

In summary, it is believed that the claims are in condition for allowance. Reconsideration of the rejection of Claims 1-27 is respectfully requested. Allowance of these claims at an early date is also courteously solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Katrina A. Lyon', written over the printed name.

Katrina A. Lyon
Registration No. 42,821
Attorney for Applicants

LYON & HARR, LLP
300 Esplanade Drive, Suite 800
Oxnard, CA 93036
(805) 278-8855